LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS
200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
http://www.in.gov/legislative

FISCAL IMPACT STATEMENT

LS 7378
BILL NUMBER: HB 1826

NOTE PREPARED: Feb 26, 2003
BILL AMENDED: Feb 19, 2003

SUBJECT: Clawback of Economic Development Incentives.

FIRST AUTHOR: Rep. Leonard
FIRST SPONSOR: Sen. Dillon

BILL STATUS: As Passed - House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) The bill provides for the loss of certain listed tax benefits for a business that commits a criminal violation. The bill also provides a penalty for late filing of a tax abatement deduction application. It also authorizes the county auditor or the Department of Local Government Finance to grant the deduction.

Effective Date: July 1, 2003.

Explanation of State Expenditures: (Revised) The Department of State Revenue (DOR) presumably would have to initiate actions to collect lost tax benefits from businesses under the bill. The administrative impact on the DOR would be contingent on the number of individuals and entities receiving the eleven specified state tax benefits that commit felonies.

Explanation of State Revenues: (Revised) The bill provides for corporations, pass through entities, and individual sole proprietor businesses to lose state tax benefits in a taxable year in which the individual or entity commits a felony under the laws of Indiana or the United States. However, this provision does not apply to felonies committed before January 1, 2004, or a multi-year tax benefit pursuant to an agreement entered into before January 1, 2004. While lost tax benefits to a business would result in additional tax collections to the state, the extent of this impact is indeterminable.

A state *tax benefit* refers to the following state tax credits: (1) the research expense credit; (2) the investment credit; (3) the EZ interest credit; (4) the EZ investment cost credit; (5) the industrial recovery tax credit; (6) the military base recovery tax credit; (7) EDGE credit; (8) capital investment tax credit (9) Indiana riverboat building credit; (10) rerefined lubrication oil facility credit; and (11) the voluntary remediation credit. The bill prohibits a lost tax benefit from being carried forward, carried back, or refunded. If the tax benefit is part of a multi-year tax benefit granted to the business entity, it is not entitled to the tax benefit in any subsequent taxable year. Collection of a delinquent tax liability resulting from a lost tax benefit is not subject to the statute of limitation for collection of other delinquent tax liabilities. However, the bill requires an action to collect the lost tax benefits to be initiated within three years after the date that the entity's conviction is final and appealable.

Explanation of Local Expenditures: (Revised) Under the bill, local units presumably would be responsible for collecting lost tax benefits from businesses.

Explanation of Local Revenues: (Revised) *Clawbacks:* The bill provides for corporations, pass through entities, and individual sole proprietor businesses to lose local tax benefits in a taxable year in which the individual or entity commits a felony under the laws of Indiana or the United States. However, this provision does not apply to felonies committed before January 1, 2004, or a multi-year tax benefit pursuant to an agreement entered into before January 1, 2004. While lost tax benefits to a business would result in additional tax collections to the state, the extent of this impact is indeterminable.

A local *tax benefit* refers to the following: (1) the property tax exemption for out-of-state manufactured property; (2) the local option inventory deduction; (3) the statewide inventory deduction; (4) a tax abatement; and (5) certain tax increment revenues. The bill prohibits a lost tax benefit from being carried forward, carried back, or refunded. If the tax benefit is part of a multi-year tax benefit granted to the business entity, it is not entitled to the tax benefit in any subsequent taxable year. Collection of a delinquent tax liability resulting from a lost tax benefit is not subject to the statute of limitation for collection of other delinquent tax liabilities. However, the bill requires an action to collect the lost tax benefits to be initiated within three years after the date that the entity's conviction is final and appealable.

ERA Deduction Applications: The bill allows a county auditor and the Department of Local Government Finance to accept late filed applications for a deduction for rehabilitation\redevelopment of real property in an Economic Revitalization Area (ERA), if approved by resolution of the designating body granting the deduction. This would apply after June 30, 2003. The bill provides that the late filing of a deduction application reduces the deduction by 2% if the filing is less than 30 days late; and 10% if the filing is 30 or more days late.

State Agencies Affected: Department of State Revenue; Indiana Department of Commerce.

Local Agencies Affected: Local units; County Auditors.

Information Sources:

Fiscal Analyst: Jim Landers, 317-232-9869